

1 BILL NO. S-80-01-28 (as amended)

2 SPECIAL ORDINANCE NO. S- 09-80

3 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO
4 ISSUE ITS "ECONOMIC DEVELOPMENT FIRST MORTGAGE
5 REVENUE BONDS (PAYLESS CASHWAYS, INC. PROJECT)"
6 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

7 WHEREAS, the Fort Wayne Economic Development Commission has
8 rendered its Project Report for the Payless Cashways, Inc. Project
9 regarding the financing of proposed economic development facilities
10 for Payless Cashways, Inc., an Iowa corporation (the "Company") and
11 the Fort Wayne Planning Commission has commented favorably thereon;
12 and

13 WHEREAS, the Fort Wayne Economic Development Commission con-
14 ducted a public hearing on January 10, 1980, and also adopted a
15 resolution on said date, which resolution has been transmitted
16 hereto, finding that the financing of certain economic development
17 facilities to be leased to the company complies with the purposes
18 and provisions of I.C. 18-6-4.5 and that such financing will be of
19 benefit to the health and welfare of the City of Fort Wayne and
20 its citizens; and

21 WHEREAS, the Fort Wayne Economic Development Commission has
22 heretofore approved and recommended the adoption of this form of
23 Ordinance by this Common Council and has approved the forms of and
24 has transmitted for approval by the Common Council the Lease Agree-
25 ment, Lease, Sublease, Guaranty Agreement, and Mortgage and In-
26 denture of Trust; now therefore,

27 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
28 WAYNE, INDIANA, THAT:

29 Section 1. It is hereby found that the financing of the
30 economic development facilities referred to in the Lease Agreement
31 approved by the Fort Wayne Economic Development Commission and
32 presented to this Common Council, subleasing of the Subleased Site
33 (as defined in the Lease Agreement) from the Company, the issuance
34 and sale of revenue bonds, the use of the proceeds of the revenue
35 bonds for the financing of the acquisition and construction of such
facilities and the lease thereof to the Company, the payment of the

1 revenue bonds by the Lease payments of the Company under the Lease
2 Agreement, the guarantee of the payment of the principal and
3 interest on the revenue bonds by the Company under the Guaranty
4 Agreement, and the securing of said bonds by the mortgaging of such
5 facilities to the Trustee under the Mortgage and Indenture of Trust,
6 complies with the purposes and provisions of I.C. 18-6-4.5 and will
7 be of benefit to the health and welfare of the City of Fort Wayne
8 and its citizens.

9 Section 2. The final forms of the Lease Agreement, Lease,
10 Sublease, Guaranty Agreement, and Mortgage and Indenture of Trust
11 approved by the Fort Wayne Economic Development Commission are
12 hereby approved and all such documents (herein collectively
13 referred to as the "Financing Agreement" referred to in I.C. 18-6-
14 4.5), shall be incorporated herein by reference and shall be in-
15 serted in the minutes of the Common Council and kept on file by the
16 Clerk.

17 Section 3. The City of Fort Wayne shall issue its Economic
18 Development First Mortgage Revenue Bonds (Payless Cashways, Inc. *Sub*
19 Project), in the total principal amount of *Two* *Five Hundred Thousand*
20 *(\$2,500,000)* ~~(\$2,600,000)~~ *(\$2,500,000)* for the purpose of procuring funds to finance the
21 costs of acquisition, construction and equipping of the economic
22 development facilities as more particularly set out in the Mortgage
23 and Indenture of Trust and Lease Agreement incorporated herein by
24 reference, which bonds will be payable as to principal, premium,
25 if any, and interest from the rental payments made by the Company
26 under the Lease Agreement or as otherwise provided in the above
27 described Mortgage and Indenture of Trust and Guaranty Agreement.
28 The Bonds shall never constitute a general obligation of, an indebt-
29 edness of, or a charge against the general credit of the City of
30 Fort Wayne.

31 Section 4. The Mayor and Clerk are authorized and directed
32 to sell such bonds to the purchasers thereof at a rate of interest
33 on the bonds not to exceed 7 3/8% per annum and at a price not less
34 than 100% of the principal amount thereof.

Section 5. The Mayor and Clerk are authorized and directed to execute the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The signatures of the Mayor and Clerk may be facsimile signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee named in the Mortgage and Indenture of Trust, payment for which will be made to the Trustee named in the Mortgage and Indenture of Trust and delivered by the Trustee to the purchasers thereof.

Section 6. The provisions of this Ordinance and the Mortgage and Indenture of Trust securing the bonds shall constitute a contract binding between the City of Fort Wayne and the holders of the Economic Development First Mortgage Revenue Bonds (Payless Cashways, Inc. Project), and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said bonds or the interest thereon remains unpaid.

Section 7. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted this _____ day of _____, 1980.

Councilperson

Approved as to
form and legality

John E. Hoffman

Read the first time in full and on motion by Steele,
seconded by Jim Quanta, and duly adopted, read the second time
by title and referred to the Committee Finance (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, 19____, the _____ day of _____,

DATE: 1-22-80

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Steele,
seconded by Jim Quanta, and duly adopted, placed on its
passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>0</u>		<u>1</u>	
<u>BURNS</u>	<u>✓</u>				
<u>EISBART</u>	<u>✓</u>				
<u>GIAQUINTA</u>	<u>✓</u>				
<u>NUCKOLS</u>	<u>✓</u>				
<u>SCHMIDT, D.</u>	<u>✓</u>				
<u>SCHMIDT, V.</u>				<u>✓</u>	
<u>SCHOMBURG</u>	<u>✓</u>				
<u>STIER</u>	<u>✓</u>				
<u>TALARICO</u>	<u>✓</u>				

DATE: 2-12-80

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) No. S-09-80
on the 12th day of February, 1980.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 13th day of February, 1980, at the hour of
11:30 o'clock PM M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 19th day of Feb.
1980, at the hour of 8 o'clock PM M., E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-01-28

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN
ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS

"ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS (PAYLESS
CASHWAYS, INC. PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT
THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

JAMES S. STIER, CHAIRMAN

MARK GIAQUINTA, VICE CHAIRMAN

BEN EISBART

PAUL M. BURNS

DONALD J. SCHMIDT

CONCURRED IN

DATE 2-12-80 CHARLES W. WESTERMAN, CITY CLERK